

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6742 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DILABHAI MAVJIBHA,C/O S'NAGAR JILLA SHRAMJIVI SANGH

Versus

STATE OF GUJARAT

Appearance:

MRS DT SHAH for Petitioner

GOVERNMENT PLEADER for Respondent No. 1, 3

MR DA BAMBHANIA for Respondent No. 2

CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 27/07/98

ORAL JUDGEMENT

Rule. The respective learned advocates waive service of rule on behalf of the respondents.

2. The present petitioner had filed recovery application No.19/93 under sec.33(C)(2) of the Industrial Disputes Act, 1947 for getting the difference of salary for the period between 1.1.88 to 31.12.92. The said

application was decided in his favour by the Labour Court, Surendranagar by passing the award on 3.1.1995. Thereafter on account of failure of respondent No.1 and 2 to make payment of the said amount awarded to him by the award, he filed Recovery Application No.287/95 under sec.33(C)(1) of the Industrial Disputes Act, for issuance of recovery certificate. The said application was allowed by the Labour Court, Surendranagar on 18.12.95 and by that order, the recovery certificate had been issued in favour of the petitioner on 21.12.95 directing respondent no.3 to recover the said amount from respondent no.1 and 2. He approached the respondent no.3 by giving an application on 22.10.96 but the respondent no.3 had not taken any action against respondent no.1 and 2 for implementing recovery certificate nor had given any reply to the petitioner. The petitioner has approached this Court.

3. Though the respondents no. 1 to 3 are duly served, the respondent no.1 and 2 have not filed any affidavit-in-reply. The respondent no.3 has filed affidavit of the Special Mamlatdar of Surendranagar, who has entrusted the work of recovery amount. In the said affidavit, he stated that he has already seized the tanker owned by respondent no.1 and 2, and that he had already taken step to recover the amount. Even if affidavit taking into consideration, it would be quite clear that he has seized a tanker on 4.11.97 but till today he has not taken any further step. The respondent should complete the steps whatever he wants to take in an order to recover the amount from the respondent no. 1 and 2.

4. The respondent no.3 is hereby directed to take the steps to recover amount payable to the petitioner and pay the same to the petitioner within two months from today.

5. Rule is made absolute accordingly. No order as to costs.

syed*